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A quick reference aid on U.S. foreign relations
Not a comprehensive policy statement
Bureau of Public Affairs • Department of State

Law of the Sea June 1986

Background: The doctrine of freedom of the seas has served the international community well for nearly three centuries. This concept holds that beyond a narrow belt of territorial waters the oceans are open to all nations. In recent years, the accelerating pace of technology and economic and social progress has led to a global effort to negotiate a comprehensive agreement on uses of the oceans and their resources. Held in 1958, the first Law of the Sea Conference resulted in several important conventions; a second conference followed in 1960. Neither succeeded in reaching agreement on all outstanding problems.

From 1973 through 1982 the UN convened a third conference, which produced the 1982 UN Convention on the Law of the Sea. This convention addressed a host of issues, including:

- Breadth of the territorial sea;
- Freedom of transit through, over, and under international straits;
- Coastal state jurisdiction over adjacent living and nonliving marine resources;
- Control of mining under the deep sea;
- Machinery for compulsory settlement of disputes;
- Marine pollution; and
- Scientific research.

The conference left several serious problems unresolved. As of June 1986, 159 states have signed and 26 states, plus the UN Council for Namibia, have ratified the convention. It will enter into force one year from the date of the 60th ratification or accession.

Deep seabed mining: In 1981 the US undertook a comprehensive review of its participation in the ongoing third conference and identified six areas of concern with the convention's provisions on deep seabed mining (Part XI). Despite efforts by the US and other Western countries with mining interests, the final instrument failed adequately to address those concerns. President Reagan announced in July 1982 that the US would not sign the convention. The UK and Federal Republic of Germany, objecting to the deep seabed mining provisions, also refused to sign. The US consequently does not participate in or fund the Law of the Sea Preparatory Commission, a body established to prepare for Part XI's implementation.

In August 1984, the US, UK, Federal Republic of Germany, France, Japan, Belgium, Italy, and The Netherlands signed a Provisional Understanding Regarding Deep Seabed Matters. It provides for government recognition of the resolution of conflicts over deep seabed mine sites worked out among the existing deep seabed mining consortia of these countries. The agreement also ensures that potential conflicts among future mine site applications filed with any of the parties are avoided and provides for continuing cooperation among its

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eight signatories. The provisional understanding demonstrates the US resolve to cooperate with other nations to reach accommodations that respect all nations' legitimate rights and interests.

The US believes that deep seabed mining beyond national jurisdiction is a lawful exercise of the freedom of the high seas open to all nations. The US and its nationals will continue to exercise these rights with reasonable regard to other states' interests in their exercise of such rights. To this end the US is willing to consult with any nation.

Oceans policy statement and exclusive economic zone: On March 10, 1983, President Reagan announced a comprehensive national oceans policy for the US and proclaimed a US Exclusive Economic Zone (EEZ). The President noted that the Law of the Sea Convention, except for the part governing deep seabed mining, contains provisions concerning traditional uses of the oceans that generally confirm existing maritime law and practice and fairly balance all states' interests. The President stated that the US will:

- Recognize the rights of other states in the waters off their coasts, as reflected in the convention, so long as the rights and freedoms of the US and others under international law are recognized by such coastal states;
- Continue to exercise and assert its navigation and overflight rights and freedoms worldwide in a manner consistent with the balance of interests reflected in the convention but will not acquiesce in unilateral acts of other states designed to restrict the rights and freedoms of the international community in these and other related high-seas uses; and
- Exercise sovereign rights in living and nonliving resources within 200 nautical miles of its coast. This will provide US jurisdiction for mineral resources out to 200 nautical miles that are not on the continental shelf.

The EEZ constitutes an internationally recognized area in which a state may exercise sovereign rights over living and nonliving resources off its coast and maintain jurisdiction over artificial structures, scientific research and marine environment protection, under customary international law. The US EEZ proclamation confirms US jurisdiction over all resource-related matters (other than marine scientific research and certain highly migratory fish species) within 200 nautical miles of the US coast, while simultaneously preserving for all nations traditional high seas freedoms such as navigation and overflight within the zone.

The US will continue to pursue an oceans policy that not only protects its national interests and its rights under international law but also recognizes the international community's legitimate rights and freedoms.

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